

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2655

BY DELEGATES UPSON, BLAIR, ESPINOSA,

HOUSEHOLDER, LONGSTRETH, ROBINSON, SOBONYA,

PHILLIPS, HILL AND HIGGINBOTHAM

[Passed March 10, 2018; in effect ninety days from passage.]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §61-3C-14c, relating to creating the offense of cyberbullying of minors; setting
3 forth the essential elements of the offense; defining terms; providing exceptions; and
4 establishing criminal penalties.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3C. WEST VIRGINIA COMPUTER CRIME AND ABUSE ACT.

**§61-3C-14c. Cyberbullying or specific acts of electronic harassment of minors; definitions;
penalties; exceptions.**

1 (a) It is unlawful for a person to knowingly and intentionally use a computer or computer
2 network, as defined in §61-3C-3, to engage in conduct with the intent to harass, intimidate, or
3 bully a minor, including, but not limited to:

4 (1) Posting, disseminating or encouraging others to post or disseminate private, personal,
5 or sexual information pertaining to a minor on the Internet; or

6 (2) Posting obscene material, as defined in §61-3C-14a of this code, in a real or doctored
7 image of a minor on the Internet;

8 (b) For the purposes of this section:

9 (1) "Harass, intimidate or bully" means any intentional gesture, or any intentional
10 electronic, written, verbal, or physical act, communication, transmission or threat that:

11 (A) A reasonable person under the circumstances should know the act will have the effect
12 of any one or more of the following:

13 (i) Physically harming a minor;

14 (ii) Damaging a minor's property;

15 (iii) Placing a minor in reasonable fear of harm to his or her person; or

16 (iv) Placing a minor in reasonable fear of damage to his or her property; or

17 (B) Is sufficiently severe, persistent, or pervasive that it creates an intimidating,
18 threatening, or emotionally abusive environment for a minor.

- 19 (2) "Minor" means an individual under the age of 18 years old.
- 20 (c) This section does not apply to a peaceful activity intended to:
- 21 (i) Express a political view; or
- 22 (ii) Provide information to others with no intent to harass, intimidate, or bully.
- 23 (d) Any person who violates this section is guilty of a misdemeanor and, upon conviction
- 24 thereof, shall be fined not more than \$500 or confined in jail for a period not to exceed one year,
- 25 or both confined and fined.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2018.

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Governor